

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MORTAR AND PESTLE CORP.,

Plaintiff,

v.

ATAIN SPECIALTY INSURANCE
COMPANY,

Defendant.

Case No. [20-cv-03461-MMC](#)

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS; DISMISSING
COMPLAINT WITH LEAVE TO
AMEND**


Before the Court is defendant Atain Specialty Insurance Company's ("Atain") "Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(6)," filed August 4, 2020. Plaintiff Mortar and Pestle Corp. d/b/a Olea Restaurant ("Mortar and Pestle") has filed opposition, to which Atain has replied. The matter came on regularly for hearing on September 11, 2020. GailAnn Y. Stargardter of Mokri Vanis & Jones, LLP, appeared on behalf of Atain; Arnold Levin of Levin Sedran & Berman LLP appeared on behalf of Mortar and Pestle.

The Court, having considered the parties' respective written submissions as well as the arguments of counsel at the hearing, finds, for the reasons stated on the record at the hearing, Mortar and Pestle has not plausibly alleged a covered loss under the subject policy.

Accordingly, the Motion to Dismiss is hereby GRANTED, and Mortar and Pestle is hereby afforded leave to file, no later than October 23, 2020, its First Amended Complaint.

IT IS SO ORDERED.

Dated: September 11, 2020


MAXINE M. CHESNEY
United States District Judge